

SENATE BILL No. 324

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5-23.5; IC 25-34.1-8-7.5.

Synopsis: Real estate appraisals. Prohibits certain interested persons in a real estate transaction from influencing or attempting to influence: (1) the independent judgment of a real estate appraiser; or (2) the development, reporting, result, or review of an appraisal. Sets forth certain acts that constitute a prohibited attempt to influence an appraiser or an appraisal. Requires a creditor that regularly issues mortgage loans in Indiana to do the following: (1) Ensure that its process for obtaining or reviewing appraisals for its mortgage loans is isolated from its mortgage loan origination process. (2) Ensure that the borrower in a mortgage loan is provided a free copy of any appraisal report concerning the subject real estate not later than three days before the loan closing. (3) Establish a toll free telephone number and an electronic mail address for receiving complaints from interested parties concerning attempts to influence appraisals prepared in connection with the creditor's mortgage loans. (4) Report the results of the creditor's investigations of complaints received to the real estate appraiser licensure and certification board (board). (5) Establish an appraisal review program or quality control process designed to review at least 10% of the appraisals prepared in connection with the creditor's mortgage loans. (6) Report annually to the board the results of each periodic review conducted under the review program or quality control process. Prohibits a creditor in a mortgage loan from using an appraisal report: (1) prepared by an appraiser employed by the creditor or an affiliate of the creditor; or (2) obtained through an appraisal company owned by the creditor or an affiliate; except under certain circumstances. Provides that certain participants in real estate

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Effective: Upon passage; July 1, 2009.

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January 8, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.



transactions and members of their immediate families may not own or control a majority interest in an appraisal company. Sets forth certain penalties and enforcement procedures for violations of the provisions concerning real estate appraisals. Provides an individual cause of action for a person aggrieved by a violation of the provisions. Requires the real estate commission to adopt, upon the written recommendation of the board, rules to implement the provisions.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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SENATE BILL No. 324

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-5-23.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]:

4 **Chapter 23.5. Real Estate Appraisals**

5 **Sec. 1. (a) As used in this chapter, "appraisal" means an opinion**
6 **or estimation of the value of real property that is the subject of a**
7 **real estate transaction.**

8 **(b) The term includes the following:**

9 **(1) The results of an automated valuation model.**

10 **(2) A broker's price opinion.**

11 **(3) A desktop evaluation.**

12 **Sec. 2. As used in this chapter, "appraisal company" means a**
13 **sole proprietorship, firm, corporation, partnership, limited liability**
14 **company, limited liability partnership, joint venture, trust, or**
15 **other business unit or association that:**



(1) performs appraisals on a regular basis for compensation through one (1) or more owners, officers, employees, or agents; or

(2) holds itself out to the public as performing appraisals.

Sec. 3. As used in this chapter, "board" refers to the real estate appraiser licensure and certification board created by IC 25-34.1-8-1.

Sec. 4. (a) As used in this chapter, "creditor" means a person:

(1) that regularly engages in the extension of mortgage loans that are subject to a credit service charge or loan finance charge, as applicable, or are payable by written agreement in more than four (4) installments (not including a down payment); and

(2) to whom the obligation arising from a mortgage loan is initially payable, either on the face of the note or contract, or by agreement if there is not a note or contract.

(b) The term does not include a person described in:

(1) IC 24-9-2-6(a)(2) if the person described in IC 24-9-2-6(a)(2) is not the person extending the credit in the transaction; or

(2) IC 24-9-2-6(b).

Sec. 5. As used in this chapter, "interested person", with respect to a real estate transaction, means any person that is a party to or has a pecuniary interest in the real estate transaction, including any of the following:

(1) The creditor in a mortgage loan.

(2) The borrower in a mortgage loan.

(3) A buyer in the transaction.

(4) A seller in the transaction.

(5) A loan broker, a loan originator, a principal manager, or any other person licensed or certified, or required to be licensed or certified, under IC 23-2-5.

(6) A real estate:

(A) broker; or

(B) salesperson;

licensed under IC 25-34.1, or any other person required to be licensed under IC 25-34.1.

(7) A real estate appraiser.

(8) A provider of relocation services.

(9) A settlement service provider not otherwise described in this section.

Sec. 6. (a) As used in this chapter, "mortgage loan" means a

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loan in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against an interest in real property in Indiana.

(b) The term includes the following:

(1) A home loan subject to IC 24-9.

(2) A loan described in IC 24-9-1-1, to the extent allowed under federal law.

(3) A first lien mortgage transaction (as defined in IC 24-4.4-1-301(6)) subject to IC 24-4.4.

(4) A consumer credit sale subject to IC 24-4.5-2 in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against an interest in real property in Indiana.

(5) A consumer credit loan subject to IC 24-4.5-3 in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against an interest in real property in Indiana.

Sec. 7. As used in this chapter, "real estate appraiser" means a person who develops an opinion of or estimates the value of real property in a real estate transaction in Indiana, regardless of whether the person is licensed or certified, or required to be licensed or certified, under the real estate appraiser licensure and certification program established under IC 25-34.1-3-8 and administered by the board.

Sec. 8. As used in this chapter, "real estate transaction" means a transaction that involves one (1) or both of the following:

(1) The sale or lease of any legal or equitable interest in real estate located in Indiana.

(2) The issuance, refinancing, or consolidation of a mortgage loan.

Sec. 9. (a) As used in this chapter, "settlement service provider" means a person that provides any settlement service (as defined in 24 CFR 3500.2) in connection with the closing of a real estate transaction.

(b) The term includes a closing agent (as defined in IC 6-1.1-12-43(a)(2)).

Sec. 10. (a) An interested person in a real estate transaction shall not influence or attempt to influence:

(1) the independent judgment of a real estate appraiser with respect to the value of the real estate that is the subject of the transaction; or

(2) the development, reporting, result, or review of an

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1 appraisal prepared in connection with the transaction;
 2 through bribery, coercion, extortion, intimidation, collusion, or any
 3 other manner.

4 (b) The following acts are prohibited by this section:

5 (1) Withholding or reducing, or threatening to withhold or
 6 reduce, the payment of an appraisal fee based on the opinion,
 7 conclusion, or valuation determined by a real estate
 8 appraiser.

9 (2) Withholding or threatening to withhold future business for
 10 a real estate appraiser or an appraisal company based on the
 11 opinion, conclusion, or valuation determined by a real estate
 12 appraiser, including removing a real estate appraiser or an
 13 appraisal company from a list of approved appraisers used by
 14 the interested party in real estate transactions.

15 (3) Expressly or impliedly promising future business,
 16 promotions, or increased compensation for a real estate
 17 appraiser or an appraisal company based on the opinion,
 18 conclusion, or valuation determined by a real estate
 19 appraiser.

20 (4) Conditioning payment of an appraisal fee or a bonus on
 21 the opinion, conclusion, or valuation to be reached by a real
 22 estate appraiser.

23 (5) Requesting that a real estate appraiser provide a
 24 predetermined opinion, conclusion, or valuation.

25 (6) Providing a real estate appraiser with:

26 (A) an anticipated, estimated, encouraged, or desired
 27 valuation for the subject real estate; or

28 (B) a proposed or target amount to be loaned to the
 29 borrower in a mortgage loan connected with the
 30 transaction.

31 However, this subdivision does not prohibit a person from
 32 providing a real estate appraiser with a copy of the purchase
 33 agreement in a transaction involving the sale of real estate.

34 (7) Ordering, obtaining, using, or paying for a second or
 35 subsequent appraisal in a transaction involving the issuance,
 36 refinancing, or consolidation a mortgage loan unless:

37 (A) the interested person:

38 (i) has a reasonable basis to believe that the initial
 39 appraisal was flawed or tainted; and

40 (ii) notes the basis for that belief in the loan file; or

41 (B) the second or subsequent appraisal is performed in
 42 connection with a creditor's prefunding or postfunding

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appraisal review program or quality control process established under section 11(i) of this chapter.

(c) This section does not prohibit an interested person from requesting that a real estate appraiser:

(1) consider additional appropriate information concerning the real estate that is the subject of the transaction;

(2) provide further detail, substantiation, or explanation for the real estate appraiser's opinion, conclusion, or valuation; or

(3) correct factual errors in an appraisal report.

Sec. 11. (a) This section applies to a creditor that issues mortgage loans in Indiana on a regular basis.

(b) A creditor to whom this section applies shall ensure that any of the creditor's officers, employees, or agents who are:

(1) involved in the issuance of the creditor's mortgage loans; or

(2) compensated on a commission basis upon the successful issuance of the creditor's mortgage loans;

are not involved in any way with the creditor's process for obtaining or reviewing appraisals in connection with the creditor's mortgage loans.

(c) To ensure that the officers, employees, and agents described in subsection (b) do not influence the creditor's process for obtaining or reviewing appraisals in connection with the creditor's mortgage loans, a creditor shall prohibit these officers, employees, and agents from:

(1) selecting, retaining, recommending, or influencing the selection of any real estate appraiser or appraisal company:

(A) to provide an appraisal in a particular transaction; or

(B) for inclusion on a list of approved appraisers used by the creditor in connection with its mortgage loans;

(2) communicating with a real estate appraiser in a particular transaction, including ordering or managing an appraisal assignment;

(3) working together in the same department with, or being directly supervised by the same manager as, any person who is involved in the creditor's process for obtaining or reviewing appraisals in connection with the creditor's mortgage loans.

If absolute lines of independence cannot be achieved as a result of the creditor's small size or limited staff, the creditor must use prudent safeguards to isolate its process for obtaining or reviewing appraisals from its mortgage loan origination process, to the extent

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practicable.

(d) Except as provided in subsection (e), in underwriting a mortgage loan, a creditor may not use an appraisal report that is:

(1) prepared by a real estate appraiser who is employed by the creditor or an affiliate of the creditor; or

(2) obtained by or through an appraisal company that is owned by the creditor or an affiliate of the creditor, unless the creditor's ownership interest in the appraisal company is not greater than twenty percent (20%) and all the following apply:

(A) The creditor is not involved in the day to day business operations of the appraisal company.

(B) The appraisal company is operated independently.

(C) The creditor is not involved in selecting:

(i) individual real estate appraisers; or

(ii) any list of approved appraisers;

used by the appraisal company.

(e) A creditor may use in-house staff appraisers to:

(1) order appraisals; or

(2) conduct appraisals in connection with:

(A) a prefunding or postfunding appraisal review program or quality control process established by the creditor under subsection (i); or

(B) transactions other than mortgage loan origination transactions, such as workouts of existing mortgage loans.

(f) A creditor shall ensure that the borrower in any mortgage loan issued by the creditor is provided, at no cost to the borrower, a copy of any appraisal report concerning the real estate that is the subject of the mortgage loan. The creditor shall ensure that the report is provided as soon as practicable after it is completed, but in any case not later than three (3) days before the closing of the mortgage loan. However, the borrower may waive, in writing, the right to receive the report within the three (3) day period set forth in this subsection, in which case the report shall be provided to the borrower at the time of closing. This subsection does not prohibit a creditor from requiring a borrower to pay for, or to reimburse the creditor for, the cost of the appraisal itself.

(g) Subject to subsection (h) and not later than January 1, 2010, a creditor shall establish a toll free telephone number and a dedicated electronic mail address to receive complaints from real estate appraisers, interested parties, and other persons concerning an attempt or action taken to influence, in a manner prohibited by

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1 this chapter, an appraisal prepared in connection with any of the
 2 creditor's mortgage loans. The telephone number and electronic
 3 mail address shall be staffed or attended to by one (1) or more
 4 officers, employees, or agents of the creditor who are not involved
 5 in the issuance of the creditor's mortgage loans or compensated on
 6 a commission basis upon the successful issuance of the creditor's
 7 mortgage loans. The creditor shall provide written notice to the
 8 following of the existence and purpose of the telephone number and
 9 electronic mail address established under this subsection:

10 (1) Any real estate appraiser or appraisal company that is
 11 included on a list of approved appraisers used by the creditor
 12 in connection with its mortgage loans. The creditor shall
 13 provide the notice required by this subdivision:

14 (A) not later than five (5) business days after the
 15 establishment of the telephone number and electronic mail
 16 address, if the real estate appraiser or appraisal company
 17 is included on the creditor's list of approved appraisers at
 18 the time the telephone number and electronic mail address
 19 are established; or

20 (B) upon adding a real estate appraiser or appraisal
 21 company to the creditor's list of approved appraisers, if
 22 the real estate appraiser or appraisal company is not
 23 included on the creditor's list of approved appraisers at the
 24 time the telephone number and electronic mail address are
 25 established.

26 (2) Any real estate appraiser or appraisal company that:

27 (A) is retained by the creditor to perform an appraisal in
 28 connection with a particular mortgage loan; and

29 (B) is not included on a list of approved appraisers used by
 30 the creditor in connection with its mortgage loans.

31 The creditor shall provide the notice required by this
 32 subdivision upon retaining the real estate appraiser or
 33 appraisal company.

34 (3) Each borrower in a mortgage loan issued by the creditor.
 35 The creditor shall provide the notice required by this
 36 subdivision as a separate document attached to the copy of the
 37 appraisal report provided to the borrower under subsection
 38 (f).

39 Not later than seventy-two (72) hours after receiving a complaint
 40 through the telephone number or electronic mail address
 41 established under this subsection, the creditor shall begin
 42 investigating the complaint. Not later than sixty (60) days after

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receiving the complaint, the creditor shall complete its investigation and notify the board of the results of its investigation, including any indication that conduct prohibited by this chapter has occurred. The board may, in turn, share any information received from a creditor under this subsection with the homeowner protection unit established by the attorney general under IC 4-6-12. The board or the homeowner protection unit may also share the reported information with any entity listed in IC 4-6-12-4 that may have jurisdiction over any person who is suspected of engaging in conduct prohibited by this chapter, including any entity that may have jurisdiction over the creditor or an agent of the creditor if the board or homeowner protection unit suspects that the creditor or an agent of the creditor has engaged in such conduct. However, the board, the homeowner protection unit, and any entity listed in IC 4-6-12-4 that receives information under this subsection shall treat the information, including information concerning the identity of the complainant, as confidential and shall exercise all necessary caution to avoid disclosure of the information, except as otherwise permitted or required by law.

(h) In establishing the toll free telephone number and electronic mail address required by subsection (g), a creditor shall establish uniform procedures for:

- (1) responding to calls and messages received, including a uniform standard for responding in a timely manner to electronic mail messages received;
- (2) protecting:
 - (A) the anonymity of complainants who wish to report information anonymously; or
 - (B) the identity of complainants who request that their identity not be disclosed;
- (3) documenting and verifying information reported by complainants;
- (4) conducting the investigation required by subsection (g) for each complaint received; and
- (5) transmitting the results of investigations to the board within the time required by subsection (g).

A creditor shall not retaliate in any manner against a person who makes a complaint through the creditor's toll free telephone number or electronic mail address.

(i) Not later than January 1, 2010, a creditor shall establish a prefunding or postfunding appraisal review program or quality control process under which the creditor periodically reviews at

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1 least ten percent (10%) of the appraisals prepared in connection
 2 with the mortgage loans issued by the creditor. The periodic
 3 reviews conducted as part of the creditor's review program or
 4 quality control process must be designed to determine whether:

5 (A) the property valuations reported in the appraisals
 6 performed in connection with the mortgage loans issued by
 7 the creditor reflect the actual market values of the properties
 8 being appraised; and

9 (B) any conduct prohibited by this chapter has occurred in
 10 connection with any mortgage loans issued by the creditor.

11 Beginning in 2011, not later than March 1 of each year, the
 12 creditor shall report to the board, on a form prescribed by the
 13 board, the results of each periodic review conducted during the
 14 previous calendar year under the creditor's review program or
 15 quality control process. If, after reviewing a report submitted by
 16 a creditor under this subsection, the board suspects that conduct
 17 prohibited by this chapter has occurred, the board may share the
 18 report, or information from the report, with the homeowner
 19 protection unit established by the attorney general under
 20 IC 4-6-12. The homeowner protection unit may, in turn, share the
 21 reported information with any entity listed in IC 4-6-12-4 that may
 22 have jurisdiction over any person who is suspected of engaging in
 23 conduct prohibited by this chapter, including any entity that may
 24 have jurisdiction over the creditor or an agent of the creditor if the
 25 board or homeowner protection unit suspects that the creditor or
 26 an agent of the creditor has engaged in such conduct. However, the
 27 board, the homeowner protection unit, and any entity listed in
 28 IC 4-6-12-4 that receives information under this subsection shall
 29 treat the information as confidential and shall exercise all
 30 necessary caution to avoid disclosure of the information, except as
 31 otherwise permitted or required by law.

32 Sec. 12. (a) This section applies to the following persons:

33 (1) The creditor in a mortgage loan.

34 (2) A loan broker, a loan originator, a principal manager, or
 35 any other person licensed or certified, or required to be
 36 licensed or certified, under IC 23-2-5.

37 (3) A real estate:

38 (A) broker; or

39 (B) salesperson;

40 licensed under IC 25-34.1, or any other person required to be
 41 licensed under IC 25-34.1.

42 (4) A person that regularly provides relocation services in

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connection with real estate transactions in Indiana.

(5) A settlement service provider not otherwise described in this section that regularly provides settlement services in connection with real estate transactions in Indiana.

(b) As used in this section, "immediate family", with respect to an individual, refers to:

(1) the individual's spouse who resides in the individual's household; and

(2) any dependent child of the individual.

(c) Except as provided in subsection (d) and in IC 23-2-5-9.1, in the case of a person described in subsection (a)(2), after June 30, 2009:

(1) a person to whom this section applies;

(2) a member of the immediate family of a person to whom this section applies; or

(3) a person described in subdivision (1) or (2) in combination with one (1) or more other persons described in subdivision (1) or (2);

may not own or control a majority interest in an appraisal company.

(d) This subsection applies to a person or combination of persons described in subsection (c) who own or control a majority interest in an appraisal company on June 30, 2009. The prohibition set forth in subsection (c) does not apply to a person or combination of persons described in this subsection, subject to the following:

(1) The interest in the appraisal company owned or controlled by the person or combination of persons described in subsection (c) shall not be increased after June 30, 2009.

(2) The interest of a person described in subsection (c)(1) shall not be transferred to a member of the person's immediate family.

(3) If the board determines, upon the complaint of any person or upon its own motion, that any person or combination of persons described in subsection (c) has violated this chapter, the board may order one (1) or more of the persons to divest their interest in the appraisal company. The board may exercise the remedy provided by this subdivision in addition to, or as a substitute for, any other remedy available to the board under this chapter.

Sec. 13. (a) A person that knowingly or intentionally violates section 10 or 12 of this chapter commits:

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(1) a Class A misdemeanor; and

(2) an act that is:

(A) actionable by the attorney general under IC 24-5-0.5;
and

(B) subject to the penalties listed in IC 24-5-0.5.

Whenever a judgment is entered for an offense described in subdivision (1), the court shall add to any fine imposed the amount of any fee or other compensation earned by the person in the commission of the offense. Each transaction that violates section 10 or 12 of this chapter constitutes a separate offense.

(b) A creditor that knowingly or intentionally fails to comply with any requirement set forth in section 11 of this chapter commits:

(1) a Class B infraction; and

(2) an act that is:

(A) actionable by the attorney general under IC 24-5-0.5;
and

(B) subject to the penalties listed in IC 24-5-0.5.

Whenever a judgment is entered for an offense described in subdivision (1), the court shall add to any fine imposed the amount of any fee or other compensation earned by the person in the commission of the offense. Each transaction that violates section 11 of this chapter constitutes a separate offense.

(c) The attorney general, the board, or the prosecuting attorney of any county in which a violation occurs may maintain an action in the name of the state to enjoin a person from violating this chapter. A court in which the action is brought may:

(1) issue an injunction;

(2) order the person to make restitution to a party aggrieved by the person's violation of this chapter;

(3) order the person to reimburse the attorney general, the board, or a local prosecuting attorney for the costs of investigating and prosecuting the violation; and

(4) impose a civil penalty of not more than ten thousand dollars (\$10,000) per violation.

(d) A person who violates an injunction issued under this section is subject to a civil penalty of not more than ten thousand dollars (\$10,000) per violation. The court that issued the injunction retains jurisdiction over a proceeding seeking the imposition of a civil penalty under this subsection.

(e) A civil penalty imposed and collected under this section shall be deposited in the investigative fund established by

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1 IC 25-34.1-8-7.5.

2 (f) The enforcement procedures established by this section are
3 cumulative and an enforcement procedure available under this
4 section is supplemental to any other enforcement procedure
5 available under:

6 (1) this section; or

7 (2) any other state or federal law, rule, or regulation;
8 for a violation of this chapter.

9 Sec. 14. (a) Subject to subsection (c), a person who is aggrieved
10 by a violation of this chapter may bring an action, in a court
11 having jurisdiction, against any person responsible for the
12 violation. The court may award one (1) or more of the following to
13 a person who brings an action under this section:

14 (1) Actual damages, including consequential damages. A
15 complainant is not required to demonstrate reliance in order
16 to receive actual damages.

17 (2) Statutory damages of at least one thousand five hundred
18 dollars (\$1,500) and not more than seven thousand five
19 hundred dollars (\$7,500) for each offense.

20 (3) The complainant's reasonable costs and attorney's fees.

21 (4) Such injunctive, declaratory, and other equitable relief as
22 the court determines appropriate.

23 A person is not required to exhaust any administrative remedies
24 under this chapter or under any other applicable law before
25 bringing an action under this subsection. However, a person may
26 not bring a class action for a violation of this chapter.

27 (b) If a court with jurisdiction over an action brought under
28 subsection (a) determines that a person charged with violating this
29 chapter has violated this chapter, the court shall give written notice
30 of the violation to any entity listed in IC 4-6-12-4 that may have
31 jurisdiction over the person who committed the violation. If the
32 person determined to have committed the violation has a record of
33 violating this chapter on at least two (2) previous occasions, any
34 entity listed in IC 4-6-12-4 that has issued a professional license or
35 certificate to the person shall:

36 (1) revoke the person's license or certificate to practice; and

37 (2) make the person's name accessible to the public:

38 (A) by request at the entity's offices; and

39 (B) through the entity's web site.

40 (c) An action under subsection (a) must be brought not later
41 than five (5) years after the violation occurred. However, this
42 subsection does not prevent a borrower in a mortgage loan from

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1 asserting:

2 (1) in any action to collect a debt arising from the mortgage
3 loan that is brought by a creditor or other person more than
4 five (5) years after an alleged violation of this chapter
5 occurred; and

6 (2) as matter of defense by recoupment or set off;
7 that a violation of this chapter occurred.

8 (d) An award of damages under subsection (a) has priority over
9 any civil penalty imposed for a violation of this chapter.

10 (e) The remedies provided in this section are cumulative and a
11 remedy available under this section to a person aggrieved by a
12 violation of this chapter is supplemental to any other remedies
13 available to the person under:

14 (1) this section; or

15 (2) any other state or federal law, rule, or regulation;
16 for the violation.

17 Sec. 15. (a) As used in this section, "commission" refers to the
18 Indiana real estate commission established by IC 25-34.1-2-1.

19 (b) The commission shall, upon the written recommendations of
20 the board, adopt rules under IC 4-22-2 to implement this chapter.

21 SECTION 2. IC 25-34.1-8-7.5, AS AMENDED BY P.L.57-2007,
22 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2009]: Sec. 7.5. (a) The investigative fund is established to
24 provide funds for administering and enforcing the provisions of this
25 article, including investigating and taking enforcement action against
26 real estate fraud and real estate appraisal fraud. The fund shall be
27 administered by the attorney general and the professional licensing
28 agency.

29 (b) The expenses of administering the fund shall be paid from the
30 money in the fund. The fund consists of:

31 (1) money from a fee imposed upon licensed or certified
32 appraisers and real estate brokers and salespersons under
33 IC 25-34.1-2-7 and IC 25-34.1-3-9.5; and

34 (2) civil penalties deposited in the fund under
35 IC 24-5-23.5-13(e).

36 (c) The treasurer of state shall invest the money in the fund not
37 currently needed to meet the obligations of the fund in the same
38 manner as other public money may be invested.

39 (d) Except as otherwise provided in this subsection, money in the
40 fund at the end of a state fiscal year does not revert to the state general
41 fund. If the total amount in the investigative fund exceeds seven
42 hundred fifty thousand dollars (\$750,000) at the end of a state fiscal

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year after payment of all claims and expenses, the amount that exceeds seven hundred fifty thousand dollars (\$750,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against real estate and appraisal fraud under this article. The attorney general shall receive five dollars (\$5) of each fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5, and the licensing agency shall receive any amount that exceeds five dollars (\$5) of each fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5.

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "board" refers to the real estate appraiser licensure and certification board created by IC 25-34.1-8-1.

(b) As used in this SECTION, "commission" refers to the Indiana real estate commission created by IC 25-34.1-2-1.

(c) Not later than June 1, 2009, the board shall submit to the commission written recommendations on rules necessary to implement IC 24-5-23.5, as added by this act, as required by IC 24-5-23.5-15, as added by this act.

(d) Notwithstanding IC 24-5-23.5-15, as added by this act, not later than June 15, 2009, the commission shall adopt emergency rules under IC 4-22-2-37.1 to adopt the recommendations submitted by the board under subsection (c) on an emergency basis. An emergency rule adopted by the commission under this subsection expires on the earlier of:

(1) the date the rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36; or

(2) January 1, 2011.

(e) This SECTION expires January 1, 2011.

SECTION 4. An emergency is declared for this act.

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